

APPEAL NO. 021870  
FILED SEPTEMBER 11, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 2, 2002. The hearing officer determined that the appellant (claimant) was not entitled to supplemental income benefits (SIBs) for the 9th and 10th quarters because the claimant's underemployment/unemployment was not a direct result of his impairment.

DECISION

Affirmed.

Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the direct result requirement of Section 408.142(a)(2) and Rule 130.102(b)(1). Those provisions require that the claimant must establish that his unemployment or underemployment is "a direct result of the impairment from the compensable injury." As the claimant notes, the hearing officer found that the claimant met the good faith job search requirement of Section 408.142(a)(4) and Rule 130.102(d)(4) and therefore is not an issue here.

It is undisputed that the qualifying period for the 9th quarter was from October 19, 2001, through January 17, 2002, with the qualifying period for the 10th quarter being from January 18 through April 18, 2002. The claimant testified that he had returned to work at full duty until December 22, 2001, when he was laid off due to a reduction in force. The claimant began actively seeking other employment on December 26, 2001, and applied for and began receiving unemployment benefits as of January 19, 2002. The claimant testified that he physically could have returned to his preinjury job.

The hearing officer found that based on the documentary evidence and the claimant's testimony, the claimant failed to prove that his underemployment during the 9th quarter and his unemployment during the 10th quarter were a direct result of his impairment. The good faith requirement and the direct result requirement are two different matters. The hearing officer, obviously believed that the claimant had successfully returned to the workforce until he was laid off, and the claimant's unemployment/underemployment was due to the lay off rather than the claimant's impairment. The hearing officer reviewed the record and decided what facts were established. We conclude that the hearing officer's determinations are not so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **ACE USA/OLD REPUBLIC** and the name and address of its registered agent for service of process is

**ROBIN MOUNTAIN, CLAIMS VICE PRESIDENT  
ACE USA  
6600 CAMPUS CIRCLE DRIVE EAST, SUITE 200  
IRVING, TEXAS 75063.**

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Thomas A. Knapp  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Michael B. McShane  
Appeals Judge